



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,776	08/09/1999	TATSUYA KUBOTA	450108-4457	8487

20999 7590 11/07/2003

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

MEISLAHN, DOUGLAS J

ART UNIT	PAPER NUMBER
----------	--------------

2132

DATE MAILED: 11/07/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370,776

Applicant(s)

KUBOTA ET AL.

Examiner

Douglas J. Meislahn

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,120 and 121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,120 and 121 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the RCE filed 05 August 2003 that caused entry of the after-final amendment submitted 21 July 2003. The after-final amended claims 1 and 120. Furthermore, the after-final presented claim 3 as cancelled, thereby canceling the claim. Also, claim 2, which had been cancelled in paper number 7 was re-introduced. In the summary of the claims, applicant stated that claim 3 was still pending, which leads the examiner to believe that claim 3 was mistakenly believed to have been the cancelled claim. As the file currently stands, both claim 2 and claim 3 are cancelled. If applicant wishes to re-introduce one of the claims, it should be added as claim 123.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 4-7, 120, and 121 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments focus on the combination of features introduced by the amendment with elements that already existed in the claims. The new material is rendered obvious by Yanagidaira et al. (5367269).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2132

4. Claims 1, 4-7, 120, and 121 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The term "substantially" in claims 1 and 102 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The examiner believes that "substantially" is used to protect the claims from infringement. However, the examiner's guess needs to be supported by an actual statement by the applicant to overcome this rejection. Also, please cite any relevant sections of the specification; the examiner did not find any.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4-7, 120, and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurihara (6069956) in view of Yanagidaira et al. (5367269).

Element 21 of figure 2 in Kurihara anticipates scramble key generation means. Lines 63-64 of column 7 anticipate periodic scramble key updates. Lines 19-26 of column 16 anticipate scramble means. Kurihara does not say that different keys are used to scramble different parts of the program where the different parts are output

Art Unit: 2132

substantially simultaneously. In lines 18-22 of column 7, Yanagidaira et al. teaches scrambling audio data with a first oscillator and video data with a different oscillator. While Yanagidaira et al. specifically note that this technique eliminates blank periods, a person of ordinary skill in the art would also readily appreciate that, on a broader level, use of two different oscillators, both of which scrambles a distinct portion of the data, would improve security. Complete recovery of the data would require breaking two, instead of one, scrambling. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to separately scramble different parts of Kurihara's signal as taught by Yanagidaira et al., thereby increasing security.

With respect to claim 120, lines 28-29 of column 10 show an enciphered scramble key. Element 16 anticipates claim 121.

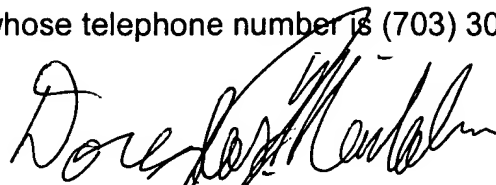
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached on between 9 AM and 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barrón can be reached on (703) 305-1830. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2132

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Douglas J. Meislahn
Examiner
Art Unit 2132



DJM